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Paulsen and Jenkins: Health Care Provision on OTC Drugs Hurts Consumers

By Reps. Erik Paulsen and Lynn Jenkins

Special to Roll Call

April 25, 2012, 12:01 a.m.

When was the last time you walked into your local drugstore and bought a bottle of Tylenol for your headache or a box of Claritin for your child's allergies? Did you use your health savings account or flexible savings account to purchase those, or similar, medicines?

Like millions of Americans, you probably thought that your choice to put money into your HSA or FSA gave you the right to decide how to spend it. Unfortunately, as of this past January, you would be wrong.

More and more consumers are discovering a provision in the 2010 health care law that went into effect at the beginning of this year that prevents you from buying over-the-counter medicines using your HSA or FSA, without a doctor's prescription. Instead of walking into your local drugstore to use your HSA or FSA, Americans are now forced to first visit a doctor, and pay a standard co-pay, before finally receiving a prescription for simple medicines like Advil. Sound burdensome? That's because it is.

Millions of Americans have elected to use an HSA or FSA. More than 40 million HSAs, FSAs and health reimbursement accounts cover more than 11 million lives. These consumers chose this option for their health coverage because these plans offer flexibility and portability. Increasingly, small-business owners are offering these types of accounts as a more workable option for on-the-go employees. The new health care law changes that and is wreaking havoc on patients and small businesses alike.

Doctors and nurse practitioners frequently urge patients to seek out OTC products as a means to address immediate and long-term health care maintenance. These are the same products that have been deemed safe and appropriate for consumers by the Food and Drug Administration.

A recent study found that OTC medicines contribute a total of \$102 billion each year in savings and cost avoidance to the health care system. That means for every \$1 spent on OTC medicines, the health care system saves \$6-\$7. In 2010, polling showed that more than 90 percent of Americans prefer to seek treatment with OTCs before seeing a health care provider.

At the same time, nearly 90 percent of the physicians and pharmacists surveyed recommend that patients self-treat with OTC medicines before seeing a doctor.

Consumer-driven health options like HSAs and FSAs put patients in the driver's seat when it comes to their health needs. They provide an option to access quality health care at an affordable price. The unnecessary prescription requirement limits access and flexibility. Consumers don't like it because it's too restrictive; doctors don't like it because it adds unnecessary office visits and burdensome administrative duties; and employers don't like it because they want to promote simple and easy options for their employees.

That's why we are working to repeal this onerous burden and have both introduced legislation that does so with bipartisan support. Today, the House Ways and Means Committee will hold a hearing on the use of HSAs and FSAs to pay for over-the-counter medicines.

We expect that after hearing the common-sense arguments from the panelists, members of the committee and the whole House of Representatives will agree that we must do away with the prescription requirement. We believe that individuals and families make the best decisions for their health care needs, not the government.

Reps. Erik Paulsen (R-Minn.) and Lynn Jenkins (R-Kan.) are members of the Ways and Means Committee.



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